

## REMARKS

The specification has been amended to correct an error in that two elements were designated by the same numeral. The elastic member surrounding the high heel aperture is now designated as element 18, a informal drawing is submitted herewith to illustrate the change to Figure 1.

The language of original claims 3 and 11 has now been addressed by various amendments, such that the device is no longer described as "cup-like" and the term "apex" is no longer present.

Claim 1 has been amended by incorporating a horizontally disposed ridge member, shown as element 16 in Figures 1 and 2. Claim 9 has been amended by adding language better defining the bottom member and including a high heel aperture, along with language defining the functionality of the bottom and high heel aperture. Claim 16 has been amended by adding language better defining the bottom member and including a high heel aperture.

It is submitted that the claims as amended are now patentable in view of the known prior art. As to claim 1 and its dependent claims, the prior art alone or in combination does not teach or make obvious the provision of a ridge member disposed horizontally on the main body and a generally planar bottom member. As to claims 9 and 16 along with their dependent claims, the prior art alone or in combination does not teach or make obvious the combination of a planar bottom member and a high heel aperture.

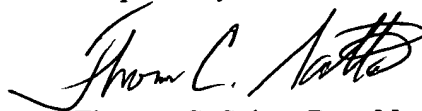
Contrary to the statements by the Examiner in the office action, Watson '190 does not teach a high heel aperture. Instead, careful reading of the Watson patent shows the teaching of a recess formed in the interior of the guard with no teaching or suggestion of providing an aperture in the bottom of the guard. The stated purpose of the Watson device is to prevent slippage by

providing a corrugated tread. The device is defined to be a "cap" (col. 2, lines 68-69) and is defined in each of the claims to have a "heel inclosing [sic] pocket". Review of Figure 1 of the drawings shows that in the cross-section at the mid-line of the heel, the corrugated tread "d" is uninterrupted. It is therefore submitted that there is no basis other than unsubstantiated inference to cite Watson as teaching a high heel aperture.

The Allen '271 patent does not disclose a bottom and in particular does not disclose a planar bottom having a high heel aperture disposed therethrough. The Allen device is merely a tapered elastic tube and would not function on flat-heeled shoes. There is no suggestion or motivation to include a high heel aperture as taught in Allen to Charles '420, for example, since Allen does not envision the presence of a bottom, which would negate the tubal functionality of the Allen device, and in Charles the device has an extended height to accommodate the longer heel.

It is respectfully submitted that the claims as amended are patentable, on the basis of the above remarks, and reconsideration and subsequent passage for allowance is hereby requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Thomas C. Saitta", with a stylized flourish at the end.

Thomas C. Saitta, Reg. No. 32102  
Attorney for Applicant

Rogers Towers, P.A.  
1301 Riverplace Blvd.  
Suite 1500  
Jacksonville, FL 32207  
904-346-5518  
904-396-0663 (fax)